

50/100  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 170/2000

R.A/C.P No. ....

E.P/M.A No. ....

1. Orders Sheet. O.D. 170/2000 Pg. 1 to 4
2. Judgment/Order dtd. 02/01/2001 Pg. 1 to 4 allowed
3. Judgment & Order dtd. .... Received from H.C/Supreme Court
4. O.A. 170/2000 Pg. 1 to 35
5. E.P/M.P. N.I. Pg. .... to ....
6. R.A/C.P. N.I. Pg. .... to ....
7. W.S. N.I. Pg. .... to ....
8. Rejoinder Pg. .... to ....
9. Reply. ~~Other cause~~ Pg. 1 to 16
10. Any other Papers Pg. .... to ....
11. Memo of Appearance
12. Additional Affidavit
13. Written Arguments
14. Amendement Reply by Respondents
15. Amendment Reply filed by the Applicant
16. Counter Reply. ~~Other cause~~ Pg. 1 to 4

Show each Reply pg - 17

SECTION OFFICER (Judl.)

FOF  
(S)

## In The Central GUWATI

AP

**Applicant(s)**

**Respondent(s)**

Advocate for Applicant(s)

No. B.M.

Mr. S. S. Smith

**Advocate for Respondent(s)**

C.G. - S.C.

Notes of the Registry	Date	Order of the Tribunal
<p>1. The applicants are form and other like as per the Scheme of the Telecommunications Department. The date is 10.7.2007.</p> <p><i>497/32</i></p> <p><i>10.7.2007</i></p> <p><i>Mr. Sarma</i></p> <p><i>P2</i></p>	19.5.00	<p>Considered the prayer of joining both the applicants in this single application. Considering the similarity of claims and reliefs sought for in respect of both the applicants they are permitted to join in this single application.</p> <p>Heard Mr S.Sarma, learned counsel for the applicants and considered the O.A. and the prayer of interim relief. The applicants are claiming grant of temporary status and regularisation as per the 1999 Scheme of the Telecommunications department. They are still in service with the respondents but they apprehend termination of their services in view of the relief claimed.</p> <p>Issue notice to the respondents to show cause as to why this application shall not be admitted. Returnable by four weeks.</p>

## Order of the Tribunal

List on 20.6.2000 for show  
case and admission. In the mean  
the respondents are directed  
to dispense with the ser-  
of the applicants.

J.M  
Member (J)

20.6.00 There is no Bench today.  
Adjourned - 25.7.00.

1070  
h

No. Cause Shown

Very  
6.7.2000

7.7.00 Present: Hon'ble Mr S. Biswas, Administrative Member

Learned counsel Mr U.K. Nair for the applicant and Mr A. Deb Roy, learned Sr. C.G.S.C. for the respondents.

At the request of the learned counsel for the respondents the case is adjourned and posted for filing written statement on 24.7.00.

S.B.C.

Member (A)

nkm

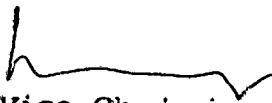
24.7.00 No Bench is available today  
(at 12.45 p.m.)

1070  
h

17.8.00 No Bench is available today  
(at 28.8.00)

1070  
h

Notes of the Registry	Date	Order of the Tribunal
Order dtd. 29/9/00 communicated to parties concerned vide D/No dttd _____	29.9.00	<p>Present : The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman</p> <p>Heard Mr B.K.Sharma, learned Sr.counsel for the applicant and Mr A.Deb Roy, learned Sr.C.G.S.C. Application is admitted. No fresh notice need be issued. In the meantime the interim order dated 19.5.2000 shall continue.</p> <p>List on 10.11.2000 for further order.</p>
Case has been sick.	pg S/S 31/10/2000	Vice-Chairman
Case is ready for hearing.	10.11.00	<p>The respondents has submitted their written statement. Mr S.Sarma, learned counsel for the applicant prays for 10 days time to file rejoinder. prayer allowed</p> <p>List on 20.11.2000 for order.</p>
Case is ready for hearing.	pg S/S 1.1.2001	Vice-Chairman
	20.11.00	<p>The written statement and the rejoinder are exchanged by the parties. Case is ready for hearing.</p> <p>List on 14.12.2000 for hearing before the Single Bench .</p>
	pg 14-2	<p>No S.B. Adjourned to 2.1.2001. M/s. _____</p>

Notes of the Registry	Date	Order of the Tribunal
<p>23.1.2001</p> <p><u>Copy of the Judgment</u> has been sent to the D/Secy for issuing the same to the Appellant as well as to the Dr. C.G.S.C.</p> <p>181</p>	<p>2.1.2001</p> <p>pg</p>	<p>Heard counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is allowed in terms of the order. No order as to costs.</p> <p> Vice-Chairman</p>

CENTRAL ADMINISTRATIVE TRIBUNAL ::  
GUWAHATI BENCH.

O.A./R.X. No. . . . . 170 of 2000.

DATE OF DECISION 2.1.2001.

Shri Binay Das and another.

PETITIONER(S)

Sri S. Sarma.

ADVOCATE FOR THE  
PETITIONER(S)

VERSUS -

Union of India & Ors.

RESPONDENT(S)

Sri B.C.Pathak, Addl.C.G.S.C.

ADVOCATE FOR THE  
RESPONDENTS

THE HON'BLE MR D.N.CHOWDHURY, VICE CHAIRMAN.

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman.

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 170 of 2000.

Date of Order : This the 2nd Day of January, 2001.

The Hon'ble Mr D.N.Chowdhury, Vice-Chairman.

1. Shri Binay Das, and
2. Sri Madhu Singh Hira

Both the applicants are casual worker  
under SDOT, Hojai Sub-Division.

... Applicants.

By Advocate Sri S.Sarma.

- Versus -

1. Union of India  
represented by the Secretary  
to the Government of India,  
Ministry of Communication, Sansar Bhawan,  
New Delhi-1.

2. The Chief General Manager,  
Assam Telecom Circle,  
Guwahati-7.

3. The Sub Divisional Officer,  
(Telecom), Hojai Telephone Exchange,  
Nagaon.

... Respondents.

By Sri B.C.Pathak, Addl.C.G.S.C.

O R D E R

CHOWDHURY J.(V.C)

Conferment of temporary status and regularisation  
of their services are the key question involved in this  
application. The applicants are two in number. The applicant  
No.1 stated in this application that he was initially  
appointed as casual worker in the month of January 1993  
in the office of the Sub Divisional Officer, Micro Wave  
Project, Dimoruguri, Nagaon and thereafter he was placed  
under the direct control of one Junior Telecom Officer.

The applicant was thereafter sent on transfer to Lanka Micro Wave Station, where he worked till December 1994 and shifted to SDOT Hojai Telephone Exchange on transfer. The applicant stated that he intermittently worked under the respondents without any break since 1993 and for that purpose he was paid in ACG-17 pay bills upto December 1994. After December 1994 that was on his transfer to Assam Circle he was drawing his pay under the Muster Roll Register maintained by the respondent No.3 till the filing of this application. The applicant No.2 was appointed as casual worker in the year 1981 under SDO(T) Nagaland. Thereafter, in 1991 he was transferred to Hojai Sub Division under SDO(T) and till the filing of this application he was working under the respondents. Since the cause of action and the reliefs sought for by the applicants are of similar nature leave was granted under Rule 4(5)(a) of the Central Administrative Tribunal(Procedure) Rules 1987 to put their grievance by the single application.

2. The respondents filed their written statement denying the claim of the applicants. The respondents however stated that these two applicants were occasionally engaged by the field units for carry out the works which were purely of casual nature and that these applicants were not appointed by the authority nor their services utilised for any sanctioned vacancies. The applicants counteracting the averments contained in the written statement submitted rejoinder alongwith the documentary evidence by Annexure RJ-1 to RJ-4 showing that both the applicants were appointed legitimately from the licit source and they were rendering continuous service on the respondents from their date of initial recruitment in

1981 and 1993 till filing of this application and their services were terminated only after filing of the written statement.

3. Heard Mr S.Sarma, learned counsel appearing for the applicants and Mr B.C.Pathak, learned Addl.C.G.S.C for the respondents. Mr Sarma submitted that persons even junior to the applicants engaged as casual worker were given the temporary status on the strength of numerous orders from this Tribunal including the orders passed in O.A. 107/1998 and series of like applications thouse were disposed of on 31.8.1999. Mr Sarma further submitted that the respondents did not portray the true and correct position in its written statement. Mr Sarma also submitted that written statement was not to be given any credence since it was not properly verified as per law. Mr Pathak on the other hand referring to the written statement submitted that these applicants were not in regular roll. The averments made in the written statement cannot as such be accepted in view of the documentary evidence furnished in Annexure RJ-1 to RJ-4. The averments contained in the written statement also did not clearly verify the informations indicating the source of its informations. That apart the materials on record indicated that these applicants rendered their services to the authority for longer duration requiring consideration of their cases in the light of the decision rendered by the Supreme Court in series of Writ Petitions and considered in Writ Petition (C) No. 1280 of 1989 disposed of on 17.4.1990. Since the applicants also rendering their services the case of these applicants are required to be considered by the respondents in the light of the order rendered by the Supreme Court and other like applications disposed of by this Tribunal, more particularly,

C.A.107/1998 and host of other applications. The respondents are accordingly directed to examine the case of both applicants in the light of the order passed by this Tribunal. The applicants are also directed to file representation individually within a period of one month from the date of receipt of this order narrating full details of their cases. On receipt of such representation the respondents are directed to scrutinize and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of 3 months from the date of receipt of the representation.

The application is accordingly allowed. There shall, however, be no order as to costs.

  
( D.N.CHOWDHURY )  
VICE CHAIRMAN

केन्द्रीय प्रशासनीय न्याय नियम, १९६६  
Central Administrative Tribunal

३३६ ११ MAY 2000

गुवाहाटी न्यायालय  
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Title of the case :

D.A. No. 170 of 2000

BETWEEN

Shri Binay Das. .... Applicant.

AND

Union of India & ors. .... Respondents.

I N D E X

Sl. No.	Particulars	Page No.
1.	Application	1 to 11
2.	Verification	12
3.	Annexure-1	13
4.	Annexure-2	15
5.	Annexure-3	19
6.	Annexure-4	21
7.	Annexure-5	22
8.	Annexure-6	26
9.	Annexure-7	27

\*\*\*\*\*  
Filed by : S. Barma Advocate  
161512.00

Regn. No. :

File : WS/Binay

Date :

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

Between

1. Shri Binay Das, S/o Late Gobinda Das, aged about 29 years, presently working as casual worker under SDOT Hojai Sub Division, Nogaon.

2. Madhu Singh Hira, S/o Lt. Motiram Hera, presently working as casual worker, working under SDOT (HOJAI)

... Applicant.

- AND -

1. Union of India, represented by the Secretary to the Government of India, Ministry of Communication, Sansar Bhawan, New Delhi-1.

2. The Chief General Manager Assam Telecom Circle, Ghy.-7.

3. The Sub Divisional Officer, (Telecom.) Hojai Telephone Exchange, Nogaon

... Respondents

*[Signature]*

DETAILS OF THE APPLICATION.

1. PARTICULARS OF ORDER AGAINST WHICH THIS APPLICATION IS MADE.

The present application is not directed against any particular order but has been made against the inaction of the part of the Respondents in not considering the case of the Applicant for grant of temporary status and regularisation in the light of Apex Court verdict and the scheme prepared pursuant to the said verdict as well as subsequent clarifications issued from time to time by the Ministry concerned. The Applicant through this application prays for an appropriate direction to the Respondents to extend the benefit of the scheme as well as its subsequent clarifications by granting temporary status and subsequent regularisation.

2. JURISDICTION OF THE TRIBUNAL

That the Applicant declares that the subject matter of the present application is well within the Jurisdiction of this Hon'ble Tribunal.

3. LIMITATION

The Applicant declares that the present application have been filed within the limitation period prescribed under Section 21 of the Administrative Tribunal Act 1985.

4. FACTS OF THE CASE

4.1 That the Applicants are citizens of India and as such they is entitled to all the rights and privileges as guaranteed under the Constitution of India and laws framed thereunder.

4.2 That the Applicant No.1 initially got his appointment as a casual worker in the in the month of January 1993 in the office of the Sub divisional Officer Micro Wave Project Dimoruguri, Nogaon. After his aforesaid appointment he was placed under direct controller one Shri Suresh Bora, Junior Telecom Officer. After working therefore one month the Applicant was sent on transfer to Lanka Micro Wave Station. In the said Lanka Micro Wave Station he continues to work till Dec'94 thereafter he was transferred to Assam Circle and he was posted in the office of the SDOT Hojai Telephone Exchange and was asked to work under one Sri Kamakhya Ranjan Dey, JTO. Till date he has been working in the said capacity of casual worker without any break in his service. It is noteworthy to mention here that after the initial appointment in the year 1993 till December 1994 he used to get his pay under ACG-17 pay bills. However, since December 1994 the date on which he was transferred to Assam Circle, he has been drawing his pay under Muster Roll Registrar, maintained by the Respondent No. 3.

The Applicant No.2 initially got his appointed as casual worker in the year 1981 under SDO(T) Nagaland, and worked under Construction Officer(T) Nagaland. Thereafter in the year 1991 he was transferred to Hojai Sub Division under SDO(T) and till date he has been working as such. The cause of action and relief sought for by the applicants are similar and hence they pray for joining togather in a single application under Rule 4(5)(a) of CAT (P) Rules 1987.

Since the date of engagement is not in dispute, the

Applicant instead of annexing all the certificates, begs to produced the certificate regarding his engagement at the time of hearing of the case.

4.3 That the Applicant initially appointed as a casual worker in the year 1993 and 1981 and as such they are entitled to get the benefit of the scheme prepared pursuant to a verdict of Hon'ble Supreme Court. The Applicant begs to state that since 1993 and 1981 each year they have been continuously working for more than 240 days and as such they fulfill all the required qualifications as described in the scheme and its subsequent clarifications issued from time to time. Till date they have been working as casual worker but the Respondents have not yet granted them temporary status and other benefits as described in the scheme as well as its subsequent clarifications.

4.4 That the Applicants beg to state that some of the casual workers of the Department of Post had approached this Hon'ble Supreme Court and the Hon'ble Supreme Court after hearing the parties was pleased to issue a direction to the official Respondents thereto to prepare a scheme. Claiming similar benefit another set of casual workers working in the Telecommunication department also approached the Hon'ble Supreme Court seeking a similar direction and the said matter was also disposed of by a similar order and direction has been issued to the Respondents to prepare a scheme on rational basis for the casual workers who has been working continuously for one year and who have completed 240 days of continuous service.

A copy of the order of the Hon'ble Supreme Court is annexed herewith and marked as Annexure-1.

4.5 That the Applicant begs to state that the Respondents thereafter issued an order vide No. 269-10/89-STN dated 7.11.89 by which a scheme in the name and style "casual laborers" (grant of temporary status and regularisation scheme 1989) has been communicated to all heads of Departments. As per the said scheme certain benefit have been granted to the casual workers such as conferment of temporary status, wages and daily rates etc.

A copy of the order dated 7.11.89 is annexed herewith and marked as Annexure-2.

4.6 That the Applicant states that as per the direction contained in Annexure-1 judgment of the Hon'ble Supreme Court and Annexure-2 schemes he is entitled to take a benefit including temporary status and subsequent regularisation. The Applicant fulfills required qualifications mentioned in the said judgment and as such is entitled to all the benefits as described in the aforesaid scheme.

4.7 That the Applicant begs to state that after issuance of Annexure-2 schemes dated 7.11.89 the Respondents issued an order vide No. 269-4/93-STN-II dated 17.12.93 by which the benefit conferred to the casual workers by the said scheme has been clarified.

A copy of the said order dated 17.12.93 is annexed herewith and marked as Annexure-3.

4.8 That the Applicant begs to state that of the Respondents thereafter have issued various orders by which modification/clarifications has been made in the aforesaid Annexure-2 scheme dated 7.11.89. By the aforesaid clarifications the Respondents have made the scheme applicable to almost all the casual workers who have completed 240 days continuous service in a year. To that effect mention may be made order dated 1.9.99 issued by the Government of India Department of Telecommunication by which the benefit of the scheme has been extended the recruits upto 1.8.98.

A copy of the said order dated 1.9.99 is annexed and marked as Annexure-4.

4.9. That the Applicant beg to state that some of the similarly situated employees like that of the Applicant had approached this Hon'ble Tribunal by way of filing OA No. 299/96 and 302/96 and the Hon'ble Tribunal was pleased to passed an order dated 13.8.97 directing the Respondent to extend the benefit of the said scheme.

A copy of the order dated 13.8.97 is annexed herewith and marked as Annexure-5.

4.10 That the Applicant being aggrieved by the said action submitted representations to the concerned authority i.e. Respondent No. 2 for grant of temporary status and regularisation but till date nothing has been done so far in this matter. The Applicant instead of annexing all the representations begs to

8  
- 7 -

annex one of such representation dated 3.1.95.

A copy of the said representation dated 3.1.95 is annexed herewith and marked as Annexure-6.

4.11 That the Applicant begs to state that under similar facts situation numbers of casual workers had approached this Hon'ble Tribunal by way of filing various OAs and the Hon'ble Tribunal after hearing the parties to the proceeding was pleased to dispose of the said OAs by a common judgement and order dated 31.8.99 directing to the Respondents to consider their cases in the light of Hon'ble Apex Court verdict as well as the scheme and its subsequent clarifications issued from time to time.

A copy of the said judgment and order dated 31.8.99 is annexed herewith and marked as Annexure-7.

4.12 That the Applicant begs to state that his case is convert by the aforesaid judgement of this Hon'ble Tribunal. It is stated that pursuant to the aforesaid judgment and order dated 31.8.99 the Respondents have initiated a large scale proceeding for fillup atleast 900 posts of DRM under Assam Circle. However, the Respondents have only taken into consideration those casual labourers who had approached this Hon'ble Tribunal and in whose favour the Hon'ble Tribunal has given the direction. The Applicant has been pursuing the matter before the Respondents but the Respondents have shown their helplessness in absence of any order of this Hon'ble Tribunal. It is therefore the Applicant has come under the protective hands of this Hon'ble Tribunal, praying for an appropriate direction from this Hon'ble Tribunal

to the Respondents to consider their cases for grant of temporary status and regularisation in accordance with the verdict of the Hon'ble Apex Court as well as the scheme and its subsequent clarifications issued from time to time.

4.13 That the Applicants beg to state that the Respondents have acted illegally in not considering the case of the Applicants only on the ground of not having an order from this Hon'ble Tribunal. The law is well settled that in a given case if any law is laid down for one set of employees, same is applicable to all the similarly situated employees. However, in the present case the Respondents have acted illegally in differentiating the Applicants with others and for that the entire action of the Respondents is liable to be set aside and quashed.

4.14 That the Applicants beg to state that as per the direction of the Hon'ble Apex Court (Annexure-1) they are entitled to all the benefits described in the Annexure-A schemes dated 7.11.89. The direction of the Hon'ble Apex Court is very clear and Respondents now cannot shift their stand by taking the ground of not having any order from this Hon'ble Tribunal. The judgment and order of the Hon'ble Apex Court is applicable to all the casual employees working under the ecumenical departments and as such the Applicant is also entitled to all the benefits as has been granted to others similarly situated employees like that of him.

4.15 That the Applicants beg to state that presently they are the only earning members of their family and the Respondents are making a move to terminate their services in absence of any order

*Bn*

652

from this Hon'ble Tribunal. It is therefore the Applicant prays for an appropriate interim order directing the Respondents not to terminate his service during the pendency of this OA. It is noteworthy to mention here that till date he has been working as a casual worker under the Respondent No. 3 and other the said Respondents there are as many as 33 vacancies are in existence under the Group D Establishment one of which post is being occupied by the present Applicant. It is therefore the balance of convenience lies very much in favour of the Applicant in passing the aforesaid interim as prayed for and there is every likelihood that in case his interest is not protected by way of passing an appropriate interim order as prayed for, the Respondents may disengage him causing irreparable loss and injury.

#### 5. GROUNDS WITH LEGAL PROPROVISIONS

5.1 For that the entire action on the part of the Respondents in not granting the temporary status to the Applicant violating the provisions contained in the Annexure-1 judgment and order passed by the Hon'ble Apex Court is illegal and arbitrary and same are liable to be set aside and quashed.

5.2 For that action of the Respondents in treating the Applicant not at par with the other similarly situated employees to whom the benefit of the scheme has already been granted is violative of Article 14 and 16 of the Constitution of India. The Respondents being a model employer should have extended the said

benefit to the Applicant without requiring him to approach this Hon'ble Tribunal, more so whereas themselves have allowed the said benefit to one set of their employees. In any case the Respondents cannot differentiate their employees in regard to employment as has been done in the instant case. Hence the entire action of the Respondents is illegal and not sustainable in the eye of law.

5.3 For that the Respondents have acted illegally in not considering the case of the Applicant for grant of temporary status in view of order dated 1.9.99 as well as judgment and order dated 31.8.99 passed in similar matters and hence same is liable to set aside and quashed with a further direction to the Respondents to extend the benefits of the said scheme to the Applicant including all other consequential benefits.

5.4 For that in any view of the matter the action on the part of the Respondents is not sustainable in the eye of law and liable to be set aside and quashed.

The Applicant craves leave of this Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of this case.

#### 6. DETAILS OF THE REMEDIES EXHAUSTED.

That the Applicant declares that they have exhausted all the possible departmental remedies towards the redressal of the grievances in regard to which the present application has been made and presently they have got no other alternative than

approached this Hon'ble Tribunal.

7. MATTER PENDING WITH ANY OTHER COURTS

That the applicants declares that the matter regarding this application is not pending in any other Court of Law or any other authority or any other branch of the Hon'ble Tribunal.

8. RELIEF SOUGHT:

Under the facts and circumstances stand above the Applicant prays that the instant application be admitted, records be call for and upon hearing the parties on the cause or causes that may be shown, and on perusal of records be pleased to grant the following reliefs.

8.1 To direct the Respondents to extend the benefit of the scheme and to grant him temporary status as has been granted to the other similarly situated employees like that of him with retrospective effect with all consequential service benefits including arrear salary and seniority etc.

8.2 Cost of the application.

8.3 Any other relief/reliefs to which the present Applicant are entitled to under the facts and circumstances of the case and as may be deemed fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR:

Under the facts and circumstances of the case the Applicant prays for interim order directing the Respondents not to disengage him from his current employment and to allow him to continue in his service pending disposal of this application.

10. THE APPLICATION IS FILED THROUGH ADVOCATE:

11. PARTICULARS OF THE POSTAL ORDER :

(i) I.P.O. No.: 06.497437  
(ii) Date: 10.5.2000  
(iii) payable at Guwahati

12. LIST OF ENCLOSURES :

As stated in the Index.

VERIFICATION

I, Shri Binay Das, S/o Late Gobinda Das, aged about 29 years, presently working as casual worker under SDOT Hojai Sub Division, Nogaon, do here by solemnly affirm and state that the statement made in this petition from paragraph 1-3, 41-43, 46, 412-415 & 5 to 12 are true to my knowledge and those made in paragraphs 44, 45 and 47-411 are matters records of records informations derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

And I sign this verification on 16th day of May 2000.

Signature

*Shri Binay Das*

ANNEXURE-1.

Absorption of Casual Labours  
Supreme Court directive Department of Telecom take back all  
Casual Mazdoors who have been disengaged after 30.3.85.

In the Supreme Court of India  
Civil Original Jurisdiction.

Writ Petition (C) No 1280 of 1989.

Ram Gopal & ors. .... Petitioners.

-versus-

Union of India & ors ..... Respondents.

With

Writ Petition Nos 1246, 1248 of 1986 176, 177 and 1248 of 1988.

Jant Singh & ors etc. etc. .... Petitioners.

-versus-

Union of India & ors. .... Respondents.

ORDER

We have heard counsel for the petitioners. Though a counter affidavit has been filed no one turns up for the Union of India even when we have waited for more than 10 minutes for appearance of counsel for the Union of India.

The principal allegation in these petitions under Art 32 of the Constitution on behalf of the petitioners is that they are working under the Telecom Department of the Union of India as Casual Labourers and one of them was in employment for more than four years while the others have served for two or three years. Instead of regularising them in employment their services have been terminated on 30th September 1988. It is contended that the principle of the decision of this Court in Daily Rated Casual Labour Vs. Union of India & ors. 1988 (1) Section (122) squarely applies to the petitioner though that was rendered in case of Casual Employees of Posts and Telegraphs Department. It is also contended by the counsel that the decision rendered in that case also relates to the Telecom Department as earlier Posts and Telegraphs Department was covering both sections and now Telecom has become a separate department. We find from paragraph 4 of the reported decision that communication issued to General Managers Telecom have been referred to which support the stand of the petitioners.

By the said Judgment this Court said :

" We direct the respondents to prepare a scheme on a rational basis for absorbing as far possible the casual labourers who have been continuously working for more than one year in the

- 14 -  
25

posts and Telegraphs Department".

We find the though in paragraph 3 of the writ petition, it has been asserted by the petitioners that they have been working more than one year, the counter affidavit does not dispute that petition. No distinction can be drawn between the petitioners as a class of employees and those who were before this court in the reported decision. On principles, therefore the benefits of the decision must be taken to apply to the petitioners. We accordingly direct that the respondents shall prepare a scheme on a rational basis absorbing as far as practical who have continuously worked for more than one year in the Telecom Deptt. and this should be done within six months from now. After the scheme is formulated on a rational basis, the claim of the petitioners in terms of the scheme should be worked out. The writ petitions are also disposed of accordingly. There will be no order as to costs on account of the facts that the respondents' counsel has not chosen to appear and contact at the time of hearing though they have filed a counter affidavit.

Sd/-

( Ranganath Mishra) J.

New Delhi

April 17, 1990.

Sd/-

( Kuldeep Singh) J.

ANNEXURE-2.

CIRCULAR NO. 1  
GOVERNMENT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS

STN SECTION

No. 269-10/89-STN

New Delhi 7.11.89

To

The Chief General Managers, Telecom Circles  
M.T.H.I New Delhi/Bombay, Metro Dist.Madras/  
Calcutta.  
Heads of all other Administrative Units.

Subject : Casual Labourers (Grant of Temporary Status and  
Regularisation) Scheme.

Subsequent to the issue of instruction regarding regularisation of casual labourers vide this office letter No.269-29/87-STC dated 18.11.88 a scheme for conferring temporary status on casual labourers who are currently employed and have rendered a continuous service of at least one year has been approved by the Telecom Commission. Details of the scheme are furnished in the Annexure.

2. Immediate action may kindly be taken to confer temporary status on all eligible casual labourers in accordance with the above scheme.

3.1. In this connection, your kind attention is invited to letter No.270-6/84-STN dated 30.5.85 wherein instructions were issued to stop fresh recruitment and employment of casual labourers for any type of work in Telecom Circles/Districts. Casual labourers could be engaged after 30.3.85 in projects and Electrification circles only for specific works and on completion of the work the casual labourers so engaged were required to be retrenched. These instructions were reiterated in D.O letters No.270-6/84-STN dated 22.4.87 and 22.5.87 from member (pors) and Secretary of the Telecom Department respectively. According to the instructions subsequently issued vide this office letter No.270-6/84-STN dated 22.6.88 fresh specific periods in Projects and Electrification Circles also should not be resorted to.

3.2. In view of the above instructions normally no casual labourers engaged after 30.3.85 would be available for consideration for conferring temporary status. In the unlikely event of there being any case of casual labourers engaged after 30.3.85 requiring consideration for conferment of temporary status. Such cases should be referred to the Telecom Commission with relevant details and particulars regarding the action taken against the officer under whose authorisation/approval the irregular engagement/non retrenchment was resorted to.

3.3. No Casual Labourer who has been recruited after 30.3.85 should be granted temporary status without specific approval from this office.

4. The scheme finalised in the Annexure has the concurrence of Member (Finance) of the Telecom Commission vide No

SMF/78/98 dated 27.9.89.

5. Necessary instructions for expeditious implementation of the scheme may kindly be issued and payment for arrears of wages relating to the period from 1.10.89 arranged before 31.12.89.

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

Copy to.

P.S. to MDS (C).

P.S. to Chairman Commission.

Member (S) / Adviser (HRD), GM (IR) for information.  
MCG/SEA/TE -II/IPS/Admn, I/CSE/PAT/SPB-I/SR Secs.

All recognised Unions/Associations/Federations.

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

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ANNEXURE

**CASUAL LABOURERS (GRANT OF TEMPORARY STATUS AND REGULARISATION) SCHEME.**

1. This scheme shall be called "Casual Labourers ( Grant of Temporary Status and Regularisation ) Scheme of Department of Telecommunication, 1989".

2. This scheme will come in force with effect from 1.10.89. onwards.

3. This scheme is applicable to the casual labourers employed by the Department of Telecommunications.

4. The provisions in the scheme would be as under.

A) Vacancies in the group D cadre in various offices of the Department of Telecommunications would be exclusively filled by regularisation of casual labourers and no outsiders would be appointed to the cadre except in the case of appointment on compassionate grounds, till the absorption of all existing casual labourers fulfilling the eligibility qualification prescribed in the relevant Recruitment Rules. However regular Group D staff rendered surplus for any reason will have prior claim for absorption against the existing/future vacancies. In the case of illiterate casual labourers, the regularisation will be considered only against those posts in respect of which illiteracy will not be an impediment in the performance of duties. They would be allowed age relaxation equivalent to the period for which they had worked continuously as actual labour for the purpose of the age limit prescribed for appointment to the group D cadre, if required. Outside recruitment for filling up the vacancies in Gr. D will be permitted only under the condition when eligible casual labourers are NOT available.

B) Till regular Group D vacancies are available to absorb all the casual labourers to whom this scheme is applicable, the casual labourers would be conferred a Temporary Status as per the details given below.

Temporary Status.

i) Temporary status would be conferred on all the casual labourers currently employed and who have rendered a continuous service at least one year, out of which they must have been engaged on work for a period of 240 days (206 days in case of offices observing five day week). Such casual labourers will be designated as Temporary Mazdoor.

ii) Such conferment of temporary status would be without reference to the creation / availability of regular Gr. D posts.

iii) Conferment of temporary status on a casual labourers would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on a need basis. He may be deployed anywhere within the recruitment unit/territorial circles on the basis of availability of work.

iv) Such casual labourers who acquire temporary status will not, however be brought on to the permanent establishment unless they are selected through regular selection process for Gr. posts.

6. Temporary status would entitle the casual labourers to the following benefits :

- i) Wages at daily rates with reference to the minimum of the pay scale of regular Gr.D officials including DA, HRA, and CCA.
- ii) Benefits in respect of increments in pay scale will be admissible for every one year of service subject to performance of duty for at least 240 days (206 days in administrative offices observing 5 days week) in the year.
- iii) Leave entitlement will be on a pro-rata basis one day for every 10 days of week. Casual leave or any other leave will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefit of encasement of leave on termination of services for any reason or their quitting service.
- iv) Counting of 50 % of service rendered under Temporary Status for the purpose of retirement benefit after their regularisation.
- v) After rendering three years continuous service on attainment of temporary status, the casual labourers would be treated at par with the regular Gr. D employees for the purpose of contribution to General Provident Fund and would also further be eligible for the grant of Festival Advance/ food advance on the same condition as are applicable to temporary Gr.D employees, provided they furnish two sureties from permanent Govt. servants of this Department.
- vi) Until they are regularised they will be entitled to Productivity linked bonus only at rates as applicable to casual labour.

7. No benefits other than the specified above will be admissible to casual labourers with temporary status.

8. Despite conferment of temporary status, the offices of a casual labour may be dispensed within accordance with the relevant provisions of the industrial Disputes Act.1947 on the ground of availability of work. A casual labourer with temporary status can quit service by giving one months notice.

9. If a labourer with temporary status commits a misconduct and the same is proved in an enquiry after giving him reasonable opportunity, his services will be dispensed with. They will not be entitled to the benefit of encasement of leave on termination of services.

10. The Department of Telecommunications will have the power to make amendments in the scheme and/or to issue instructions in details within the framing of the scheme.

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NO. 269-4/93 STN \_ II  
GOVERNMENT OF INDIA.  
DEPARTMENT OF TELECOMMUNICATION,  
STN SECTION.

Dated New Delhi 17 Dec 1993.

To,  
All Heads of Telecom Circles/Metro Telecom Distt.  
All Heads of other Administrative Offices.  
All Heads of Ntce Regions/Project Circles.

Sub:- Casual Labourers (Grant of Temporary Status and  
Regularisation) Scheme, 1989 engaged in circles.  
after 30.3.85 and up to 22.06.88.

Sir,  
I am directed to refer to this office order no 269-4/93-STN dated 25 th June 1993 , where in orders were issued who were engaged by the project Circles/Electrification Circles, during the period 31.3.85 to 22.5.88 and who are still continuing for such works ; where they were initially engaged and who were not absent for last more than 365 days continuing from the date of issue of the above said orders.

2. The matter has further been examined in this office and it is decided that all those casual labourers who were engaged by the circle during the period from 31.3.85 to 22.6.88 and who are still continuing for such works in the circles where they were initially engaged and who are not absent for last more than 365 days continuing from the date of issue of this order, be brought under the aforesaid scheme.

3. The engagement of the casual mazdoors after 30.3.85 in violation of the instruction of the Head Quarter ,has been viewed very seriously and it is decided that all past cases wherein recruitment has been made in violation of instruction of the Head Quarter dated 30.3.85 should also be analyzed and disciplinary action be initiated against defaulted officers.

4. It is also decided that engagement of any casual mazdoors after the issuance of order should be viewed very seriously and brought to the notice of the appropriate authority for taking prompt and suitable action. This should be the personal responsibility of the Head of the Circle, concerned Class-II Officers and amount paid to such casual mazdoors towards wages should be recovered from the person who has recruited/engaged casual labourer in violation of these instructions.

5. It is further stated that the service of the casual mazdoors who have rendered at least 240 days (206 days in case of Administrative offices observing 5 days a week) of service in a year on the date of issue of these orders , should be terminated after following the condition laid down in I.D.Act 1947 under

section 25 F.G. & H.

6. These orders are issued with the concurrence of Member (Finance) vide U.O. No. 3811/93-FA-I dated 1.12.93.

Hindi version follows:

Yours faithfully,

(S.K.Dhawan)  
Asstt. Director General (STN.)

copy to :-

1. All the staff members of Dept. JCM.
2. All recognised Unions/Associations.
3. Budget, TE-I/TE-II/SNA/CVC/PAT/NCS/Sr Sections of the Telecom Commission.
4. SPP-I Section Dept. of Posts, New Delhi.

NO RECCT-3/10 part-II dated at Guwahati, 4.1.94. copy forwarded for information, guidance and necessary action to:-

- 1-2. The AMTs Guwahati/ Dibrugarh.
- 3-8. The TDM Guwahati.
9. The TDEs BGN/DR/SC/TZ/JRT.
- 10-14. The STTs BGN/DR/SC/TZ/JRT.
15. The C.S.C.T.O. Guwahati.
16. The A.E. I/C CTSD Guwahati.
17. The principal CTTC Guwahati.
18. The REM Guwahati.
19. The A.D. (Staff) C.O. Guwahati.
20. The concerned circle Secretaries of Service Unions.

-sd/-

(K.S.K.Prasad Sarma.)  
Asstt Director Telecom (E & R.)  
O/Q CGMT Ulubari , Ghy-7.

No. 269-13/99-STN-II  
 Government of India  
 Department of Telecommunications  
 Sanchar Bhawan  
 STN-II Section

New Delhi

Dated 1.7.99

To

All Chief General Managers Telecom. Circles,  
 All Chief General Managers Telephones District,  
 All Heads of other Administrative offices,  
 All the IFAs in Telecom. Circles/Districts and  
 other Administrative Units.

Subject: Regularisation/grant of temporary status to Casual  
 Labourers & regarding.

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Sir,  
 I am directed to refer to letter No. 269-4/93-STN-II  
 dated 12.2.99 circulated with letter No. 269-13/99-STN-II dated  
 12.2.99 on the subject mentioned above.

In the above referred letter, this office has conveyed  
 approval on the two items, one is grant of temporary status to the  
 Casual Labourers eligible as on 1.3.98 and another on regularisa-  
 tion of Casual Labourers with temporary status who are eligible as  
 on 31.3.97. Some doubts have been raised regarding date of effect  
 of these decisions. It is therefore clarified that in case of  
 grant of temporary status to the Casual Labourers, the order dated  
 12.2.99 will be effected w.e.f. the date of issue of this order  
 and in case of regularisation to the temporary status Mazdoors  
 eligible as on 31.3.97, this order will be effected w.e.f. 1.4.97.

Yours faithfully,

(HARDAK SINGH)  
 ASSISTANT DIRECTOR GENERAL (STN)

All recognised unions/Federations/Associations.

ANITA KUMAR SHARMA,

ANNEXURE-S

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWĀHATI BENCH

Original Application No.299 of 1996.

and

302 of 1996.

Date of order : This the 13th day of August, 1997.

Justice Shri D.N.Baruah, Vice-Chairman.

O.A.No.299 of 1996

All India Telecom Employees Union,

Line Staff and Group-D,

Assam Circle, Guwahati & Others. .... Applicants.

- Versus -

Union of India & Ors. .... Respondents.

O.A. No.302 of 1996.

All India Telecom Employees Union,

Line Staff and Group-D

Assam Circle, Guwahati & Others. .... Applicants.

- Versus -

Union of India & Ors. .... Respondents.

Advocate for the applicants : Shri B.K. Sharma

Shri S. Sharma

Advocate for the respondents : Shri A.K. Choudhury

Addl.C.G.S.C.

ORDER

BARUAH J. (V.C.)

Both the applications involve common question of law and similar facts. In both the applications the applicants have

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on

BY

prayed for a direction to the respondents to give them certain benefits which are being given to their counter parts working in the Postal Department. The facts of the cases are :

1. O.A. No.302/96 has been filed by All India Telecom Employees Union, Line Staff and Group-D, Assam Circle, Guwahati, represented by the Secretary Shri J.N.Mishra and also by Shri Deep Pradhan, a casual labourer in the office of the Divisional Engineer, Guwahati. In O.A. 299/96, the case has been filed by the same Union and the applicant No.2 is also a casual labourer. The applicant No.1 in O.A. No.299/96 represents the interest of the casual labourers referred to Annexure-A to the Original Application and the applicant No.2 is one of the labourers in Annexure-A. Their grievances are :

2. They are working as casual labourers in the Department of Telecom under Ministry of Communication. They are similarly situated with the casual labourers working in the Department of Postal Department under the same Ministry. Similarly the members of the applicant No 1 are also casual labourers working in the telecom Department. They are also similarly situated with their counter parts in the Postal Department. They are working as casual labourers. However the benefits which had been extended to the casual labourers working in the Postal Department under the Ministry of Communications have not been given to the casual labourers of the applicants Unions. The applicants state that pursuant to the judgment of the Apex Court in daily rated casual labourers employed under Postal Department vs. Union of India & Ors. reported in (1988) in sec.122 the Apex Court directed the department to prepare a scheme for absorption of the casual labourers who were continuously working in the department for more than one year for giving certain benefits. Accordingly a scheme was prepared by the Department of Posts granting benefit

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to the casual labourers who had rendered 240 days of service in a year. Thereafter many writ petitions had been filed by the casual labourers , working under the department of Telecommunication before the Apex Court praying for directing to give similar benefits to them as was extended to the casual labourers of Department of Posts. Those cases were disposed of in similar terms as in the judgment of Daily Rated Casual Labourers (Supra). The Apex Court, after considering the entire matter directed the Department to give the similar benefit to the casual labourers working under the Telecom Department in similar manner. Pursuant to the said judgment the Ministry of Communication prepared a scheme known as "Casual Labourers (Grant of Temporary Status and regularisation) Scheme" on 7.11.89. Under the said scheme certain benefit had been granted to the casual labourers such as conferment of temporary Status, Wages and Daily Rates with reference to the minimum of the pay scale etc. Thereafter, by a letter dated 17.3.93 certain clarification was issued in respect of the scheme in which it had been stipulated that the benefits of the scheme should be confined to the casual labourers engaged during the period from 31.3.1985 to 22.6.1988. On the other hand the casual labourers worked in the Department of Posts as on 21.11.1989 were eligible for temporary Status. The time fixed as 21.11.1989 had been further extended pursuant to a judgment of the Ernakulam Bench of the Tribunal dated 13.3.1995 passed in O.A.No.750/94 . Pursuant to that judgment, the Govt. of India issued a letter dated 1.11.95 conferring the benefit of Temporary Status to the casual labourers. The present applicants being employees under the Telecom Department under the Ministry of Communication also urged before the concerned authorities that they should also be given same benefit. In this connection the casual employees submitted a representation dated 29.12.1995 before the Chairman

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, Telecom Commission, New Delhi but to the knowledge of the applicant the said representation has not been disposed of. Hence the present application.

3. O.A.299/96 is also of similar facts. The grievances of the applicants are also same.

4. Heard both sides, Mr.B.K.Sharma, learned Counsel, appearing on behalf of the applicants in both the cases submits that the Apex Court having been granted the benefit of temporary status and regularisation to the casual labourers, should also be made available to the casual labourers working under Telecom Department under the same Ministry. Mr.Sharma further submits that the action in not giving the benefits to the applicants is unfair and unreasonable. Mr.A.K.Choudhury, learned Addl.C.G.S.C for respondents does not dispute the submission of Mr.Sharma. He submits that the entire matter relating to the regularisation of casual labourers are being discussed in the J.C.M level at New Delhi, however, no decision has yet been taken. In view of the above, I am of the opinion that the present applicants who are similarly situated are also entitled to get the benefit of the scheme of casual labourers (grant of temporary Status and Regularisation) prepared by the Department of Telecom. Therefore, I direct the respondents to give the similar benefit as has been extended to the casual labourers working under the Department of Posts as per Annexure-3(in O.A.302/96) and Annexure-4 (in O.A.No.299/96) to the applicants respectively and this must be done as early as possible and at any rate within a period of 3 months from the date of receipt copy of this order.

However, considering the entire facts and circumstances of the case I make no order as to costs.

*ABM* Sd/- Vice Chairman.

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Annexure-6

To,

The Chief General Manager  
Assam Telecom Circle,  
Ulubari, Guwahati-7

Sub : Grant of Temporary Status.

Sir,

With due respect I beg to lay before your honour the following facts for your kind information and necessary action thereof.

That I have been serving as casual worker for last three years without any benefit of temporary status, whereas my colleagues are enjoying the benefit of temporary status (TSM).

That sir, that it is learnt from the reliable source that number of post have been sanctioned for Assam Circle and I may be accommodated against those posts considering my past service records.

It is therefore prayed that my case for TSM may be considered as per the scheme.

Thanking you

Yours faithfully

Sd/- Binay Das

-27-

ANNEXURE - 7

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.107 of 1998 and others

Date of decision: This the 31st day of August 1999

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

1. O.A.No.107/1998

Shri Subal Nath and 27 others .....Applicants  
By Advocates Mr J.L. Sarkar and Mr M. Chanda

-versus-

The Union of India and others .....Respondents  
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

2. O.A.No.112/1998

All India Telecom Employees Union,  
Line Staff and Group 'D' and another .....Applicants  
By Advocates Mr B.K. Sharma and Mr S. Sarma

-versus-

The Union of India and others .....Respondents  
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

3. O.A.No.114/1998

All India Telecom Employees Union,  
Line Staff and Group 'D' and another .....Applicants  
By Advocates Mr B.K. Sharma and Mr S. Sarma

-versus-

The Union of India and others .....Respondents  
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

4. O.A.No.118/1998

Shri Bhuban Kalita and 4 others .....Applicants  
By Advocates Mr J.L. Sarkar, Mr M. Chanda  
and Ms N.D. Goswami.

-versus-

The Union of India and others .....Respondents  
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.



5. O.A.No.120/1998

Shri Kamala Kanta Das and 6 others .....Applicant  
By Advocates Mr J.L. Sarkar, Mr M. Chanda  
and Ms N.D. Goswami.

-versus-

The Union of India and others .....Respondents  
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

6. O.A.No.131/1998

All India Telecom Employees Union and  
another .....Applicants  
By Advocates Mr B.K. Sharma, Mr S. Sarma  
and Mr U.K. Nair.

-versus-

The Union of India and others .....Respondents  
By Advocate Mr B.C. Patha, Addl. C.G.S.C.

7. O.A.No.135/98  
All India Telecom Employees Union,  
Line Staff and Group 'D' and  
6 others .....Applicants  
By Advocates Mr B.K. Sharma, Mr S. Sarma  
and Mr U.K. Nair.

-versus-

The Union of India and others .....Respondents  
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

8. O.A.No.136/1998

All India Telecom Employees Union,  
Line Staff and Group 'D' and  
6 others .....Applicants  
By Advocates Mr B.K. Sharma, Mr S. Sarma  
and Mr U.K. Nair.

-versus-

The Union of India and others .....Respondents  
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

9. O.A.No.141/1998

All India Telecom Employees Union,  
Line Staff and Group 'D' and another .....Applicants  
By Advocates Mr B.K. Sharma, Mr S. Sarma  
and Mr U.K. Nair.

-versus-

The Union of India and others .....Respondents  
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

*XLS*

10. O.A.No.142/1998

All India Telecom Employees Union,  
Civil Wing Branch. ....Applicants  
By Advocate Mr B. Malakar

-versus-

The Union of India and others ....Respondents  
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

11. O.A.No.145/1998

Shri Dhani Ram Deka and 10 others ....Applicants  
By Advocate Mr I. Hussain.

-versus-

The Union of India and others ....Respondents  
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

12. O.A.No.192/1998

All India Telecom Employees Union,  
Line Staff and Group 'D' and another ....Applicants  
By Advocates Mr B.K. Sharma, Mr S. Sarma  
and Mr U.K. Nair.

-versus-

The Union of India and others ....Respondents  
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

13. O.A.No.223/1998

All India Telecom Employees Union,  
Line Staff and Group 'D' and another ....Applicants  
By Advocates Mr B.K. Sharma and Mr S. Sarma.

-versus-

The Union of India and others ....Respondents  
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

14. O.A.No.269/1998

All India Telecom Employees Union,  
Line Staff and Group 'D' and another ....Applicants  
By Advocates Mr B.K. Sharma, Mr S. Sarma,  
Mr U.K. Nair and Mr D.K. Sharma.

-versus-

The Union of India and others ....Respondents  
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

*[Signature]*

15. O.A.No.293/1998

All India Telecom Employees Union,  
Line Staff and Group 'D' and another .....Applicants  
By Advocates Mr B.K. Sharma, Mr S. Sarma  
and Mr D.K. Sarma.

-versus-

The Union of India and others .....Respondents  
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

.....  
O R D E R

BARUAH.J. (V.C.)

All the above applications involve common questions of law and similar facts. Therefore, we propose to dispose of all the above applications by a common order.

2. The All India Telecom Employees Union is a recognised union of the Telecommunication Department. This union takes up the cause of the members of the said union. Some of the applications were submitted by the said union, namely, the Line Staff and Group 'D' employees and some other applications were filed by the casual employees individually. Those applications were filed as the casual employees engaged in the Telecommunication Department came to know that the services of the casual Mazdoors under the respondents were likely to be terminated with effect from 1.6.1998. The applicants, in these applications, pray that the respondents be directed not to implement the decision of terminating the services of the casual Mazdoors, but to grant them similar benefits as had been granted to the employees under the Department of Posts and to extend the

88

benefits of the Scheme, namely, Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 7.11.1989, to the casual Mazdoors concerned. Of the aforesaid O.A.s, however, in O.A.No.269/1998 there is no prayer against the order of termination. In O.A.No.141/1998, the prayer is against the cancellation of the temporary status earlier granted to the applicants having considered their length of service and they being fully covered by the Scheme. According to the applicants of this O.A. the cancellation was made without giving any notice to them in complete violation of the principles of natural justice and the rules holding the field.

3. The applicants state that the casual Mazdoors have been continuing in their service in different offices of the Department of Telecommunication under Assam Circle and N.E. Circle. The Government of India, Ministry of Communication, made a scheme known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme.

This Scheme was communicated by letter No.269-10/89-STN dated 29.11.1989 and it came into operation with effect from 1.10.1989. Certain casual employees had been given the benefit under the said Scheme, such as, conferment of temporary status, wages and daily wages with reference to the minimum pay scale of regular Group 'D' employees including DA and HRA. Later on, by letter dated 17.12.1993 the Government of India clarified that the benefits of the Scheme should be confined to the casual employees who were engaged during the period from 31.3.1985 to 22.6.1988. However, in the Department of Posts, those casual labourers who were engaged as on 29.11.1989 were granted the benefit of temporary status on satisfying the eligibility criteria. The benefits were further extended

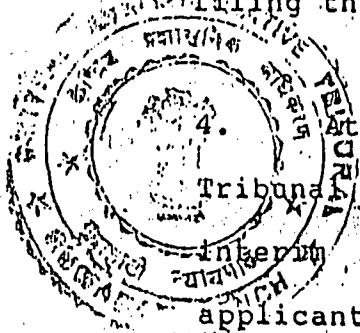
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to the casual labourers of the Department of Posts as on 10.9.1993 pursuant to the judgment of the Ernakulam Bench of the Tribunal passed on 13.3.1995 in O.A.No.750/1994. The present applicants claim that the benefit extended to the casual employees working under the Department of Posts are liable to be extended to the casual employees working in the Telecom Department in view of the fact that they are similarly situated. As nothing was done in their favour by the authority they approached this Tribunal by filing O.A.Nos.302 and 229 of 1996. This Tribunal by order dated 13.8.1997 directed the respondents to give similar benefits to the applicants in those two applications as was given to the casual labourers working in the Department of Posts. It may be mentioned here that some of the casual employees in the present O.A.s were applicants in O.A.Nos.302 and 229 of 1996. The applicants state that instead of complying with the direction given by this Tribunal, their services were terminated with effect from 1.6.1998 by oral order. According to the applicants such order was illegal and contrary to the rules. Situated thus, the applicants have approached this Tribunal by filing the present O.A.s.



4. At the time of admission of the applications, this Tribunal passed interim orders. On the strength of the interim orders passed by this Tribunal some of the applicants are still working. However, there has been complaint from the applicants of some of the O.A.s that in spite of the interim orders those were not given effect to and the authority remained silent.

5. The contention of the respondents in all the above O.A.s is that the Association had no authority to

26

represent the so called casual employees as the casual employees are not members of the Union Line Staff and Group 'D'. The casual employees not being regular Government servants are not eligible to become members or office bearers of the staff union. Further, the respondents have stated that the names of the casual employees furnished in the applications are not verifiable, because of the lack of particulars. The records, according to the respondents, reveal that some of the casual employees were never engaged by the Department. In fact, enquiries into their engagement as casual employees are in progress. The respondents justify the action to dispense with the services of the casual employees on the ground that they were engaged purely on temporary basis for special requirement of specific work. The respondents further state that the casual employees were to be disengaged when there was no further need for continuation of their services. Besides, the respondents also state that the present applicants in the O.A.s were engaged by persons having no authority and without

following the formal procedure for appointment/engagement. According to the respondents such casual employees are not entitled to re-engagement or regularisation and they cannot get the benefit of the Scheme of 1989 as this Scheme was retrospective and not prospective. The Scheme is applicable only to the casual employees who were engaged before the Scheme came into effect. The respondents further state that the casual employees of the Telecommunication Department are not similarly placed as those of the Department of Posts. The respondents also state that they have approached the Hon'ble Gauhati High Court against the order of the



Tribunal dated 13.8.1997 passed in O.A.Nos.302 and 229 of 1996. The applicants does not dispute the fact that against the order of the Tribunal dated 13.8.1997 passed in O.A.Nos.302 and 229 of 1996 the respondents have filed writ application before the Hon'ble Gauhati High Court. However, according to the applicants, no interim order has been passed against the order of the Tribunal.

6. We have heard Mr B.K.Sharma, Mr J.L. Sarkar, Mr I. Hussain and Mr B. Malakar, learned counsel appearing on behalf of the applicants and also Mr A. Deb.Roy, learned Sr. C.G.S.C. and Mr B.C. Pathak, learned Addl. C.G.S.C. appearing on behalf of the respondents. The learned counsel for the applicants dispute the claim of the respondents that the Scheme was retrospective and not prospective and they also submit that it was upto 1989 and then extended upto 1993 and thereafter by subsequent circulars. According to the learned counsel for the applicants the Scheme is also applicable to the present applicants. The learned counsel for the applicants further submit that they have documents to show in that connection. The learned counsel for the applicants also submit that the respondents cannot put any cut off date for implementation of the Scheme, inasmuch as the Apex Court has not given any such cut off date and had issued direction for conferment of temporary status and subsequent regularisation to those casual workers who have completed 240 days of service in a year.

7. On hearing the learned counsel for the parties we feel that the applications require further examination regarding the factual position. Due to the paucity of material it is not possible for this Tribunal to come to a

*Concur b/w S*

*DR*

: 9 :

16

definite conclusion. We, therefore, feel that the matter should be re-examined by the respondents themselves taking into consideration of the submissions of the learned counsel for the applicants.

8. In view of the above we dispose of these applications with direction to the respondents to examine the case of each applicant. The applicants may file representations individually within a period of one month from the date of receipt of the order and, if such representations are filed individually, the respondents shall scrutinize and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations.

9. No order as to costs.

SD/- VICE-CHAIRMAN  
SD/- MEMBER(A)

nkm

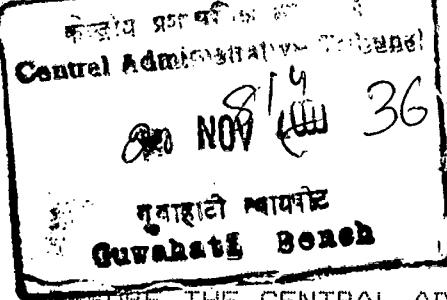
Certified to be true Copy

प्रधान अधिकारी

Myself  
20/1/1982

Deputy Registrar (O)  
Central Administrative Tribunal  
Guwahati Bench

X  
10/1/82



O.A NO 170 OF 2009.

Sri Binay Das & Anr. .... Petitioners.

- vs -

U. O. I. & Ors. .... Respondents.

IN THE MATTER OF

Reply to the Show cause reply  
submitted by the Respondents.

The Applicants beg to submit the reply to the show cause reply filed by the Respondents as follows

1. That the Applicants before dealing with parawise reply beg to raise the preliminary objection regarding the maintainability of the show cause reply filed by the Respondents. In the said reply Respondents has not verified any of its paragraphs and there is no verification as such the said show cause reply furnished to the Applicant. It is therefore prayed that Your Lordships may be pleased not to accept the said show cause reply and to allow the OA holding that the statements made in the OA are admitted.
2. That the Applicant No. 1 Shri Binay Das, entered in the services under the Respondents as casual worker after following the due process of selection in the month of January, 1993 in the office of the SDO Microwave, Dimoruguri, Nagaon and he was placed under

the direct control of one Shri Suresh Borah, JTO. Thereafter he was transferred to Microwave Station, Lankha and in the said station he worked upto December 1994. The Applicant again was transferred to the office of the SDOT, Hojai, Telephone Exchange and in the said Exchange he was again placed under the direct control of one Shri Kamakhya Ranjan Dey, JTO. The Applicant as stated above was working as a casual worker since 1993 and he used to get his salary under ACG-17 pay bills which is a recommended pay bills of the Respondents.

The Applicant No. 2 got his initial appointment in the year 1981 and to that effect the Respondents placed indents to the District Employment Exchange. The District Employment Exchange on receipt of such indents sponsored the name of the Applicant No. 2 Shri Madhu Sing Hira for such appointment. After the initial appointment the Applicant was placed under the Construction Officer (T) Nagaland, in the office of the SDOT, Nagaland as casual worker. Thereafter the Applicant continued to hold the post till 1991 and he was transferred to the office of the SDOT, Hojai Sub-division.

Copies of the employment exchange card and the certificate issued by the Sub-divisional Officer, Telegraph, Dimapur, Nagaland are annexed herewith and marked as Annexure-RJ/1 & RJ/1A respectively.

3. That with regard to the statements made in paragraph a of the show cause reply the Applicants beg to state that so far as Applicant No. 1 is concerned he was initially engaged in the year 1993 and continued till the filing of the case. On the other hand the Applicant No. 2 who was initially appointed in the year 1981 has also worked till the filing of the OA. However, on receipt of the notice alongwith the order dated 19.5.2000 protecting the service interest of the Applicants, the Respondents without issuing any order terminated their service. As per the order dated 1.9.99 (Annexure-4 to the OA) the Department of Telecommunication has decided to extend the benefit of the 1989 scheme to the recruits up to 1.8.98. In fact the Applicant were in engagement with effect from their initial appointment till the filing of the OA. Therefore their cases are required to be considered under the said Annexure-4 order dated 1.9.99.

4. That with regard to the statements made in paragraph (b) of the show cause reply submitted by the Respondents, the Applicants beg to state that both the Applicants were in service with effect from their respective date of appointment without any break. Payments have been made to them by the Respondents through the departmental pay slips prescribed for such casual workers namely ACG-17. The Applicants also denies the statement made by the Respondents regarding creation of

regular post for them. In fact almost 900 posts (Gr.-D) have already been sanctioned to Assam Circle and hence question does not arise regarding creation of any further posts.

It is further stated that the Applicants were appointed initially after following the due process of law and as stated above the Applicant No. 2 has been sponsored by the District Employment Exchange for such appointment. Respondents in fact in the year 1997 started the process of granting temporary status to the casual workers who were recruited between 31.3.85 to 22.6.88 and to that effect the Applicant No. 2's biodata has been submitted by the SDOT, Nagaon to the concerned authority indicating the days of work in a particular year. The said biodata was approved by the JTO, Groups-I, Hojai and which was counter signed by SDOT, Nagaon along with SDE(P), SDOT- Nagaon, SDOT- Diphu, SDOT-Hojai and the SDE(C)-MCN. Further his name appeared in the gradation list prepared by the Telecom District Engineer, Nagaon at serial No. 6.

Copies of the biodata submitted by the SDOT, Nagaon and the gradation list circulated vide DO No. 16.9.94 are annexed as Annexure-RJ/2 and RJ/2A respectively.

On the other hand so far is the Applicant No. 1 is

concerned after receipt of the notice by the Hon'ble Tribunal, the TDM Nagaon, issued a letter dated 26.6.2000 to DE Microwave Project asking for his service particulars and the Division Engineer in reference to the said letter submitted the particulars that he has completed 270 days in the year 1994. However, in the show cause reply in paragraph b the Respondents indicated that he did not work in the year 1994.

A copy of the aforesaid letter dated 26.6.2000 and the reply of DE enclosing the service particular are annexed as Annexure-RJ/3 and RJ/3A respectively

That the Applicant No. 1 has also issued with certificate by the concerned authority i.e. JTO Gr. Hojai Telephone Exchange, Hojai, that he has been working since 1994, December at Lanka Telephone Exchange.

A copy of the said certificate dated 24.7.99 is annexed as Annexure-RJ/4.

That from the above the service particulars placed by the Respondents in the show cause reply can be treated as vague and without consulting any record. In fact the Applicants were in engagement till the filing of the case and after passing of the interim order dated 19.5.2000 and after receiving the notice from

this Hon'ble Tribunal the Respondents have disengaged him for which the Respondent are liable for Contempt of Court Proceeding.

5. That with regard to the statements made in paragraph (c) of the show cause reply submitted by the Respondents the Applicants beg to reiterate and reaffirm the statement made above as well as in the OA. In reply to the statement that they were never in departmental service the Applicant beg to refer to the Annexures mentioned above as well as Annexure-RJ/1A and Annexure-RJ/2A in case of Applicant No. 2. Similarly in case of Applicant No. 1 Annexure-RJ/4 and Annexure-RJ/3A will speak the truth.

In reply to the statement regarding their picking up from market in random, the Applicant begs to state that both the Applicants got their initial appointment pursuant to due selection process prevailing at that time. In fact Annexure-RJ/1A certificate dated 11.6.93 will speak the correctness of the statement.

The Applicants in view of the aforesaid facts and circumstances prays before this Hon'ble Tribunal for a direction to the Respondents for production of relevant records including payment register at the time of hearing of the case.

6. That in view of the above facts and circumstances

42

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- 7 -

the Applicants prays before this Hon'ble Tribunal that appropriate direction may be issued to the Respondents for extending the benefit of temporary status to them it retrospective effect with all consequential service benefits including arrear salary, seniority, etc.

Verification...

- 8 -

#### VERIFICATION

I Shri Binay Das, age about 29 years, son of Late Gobinda Das, casual worker under SDOT, Hojai Sub-division, Nagaon, do hereby solemnly affirm and verify that the statements made in paragraph 6- 1,2,3,4,5 are true to my knowledge and those made in paragraphs 1,2,3,4,5 are matters of records which are believe to be true and rest are my humble submission before this Hon'ble Tribunal.

I am the Applicant No. 1 in the instant application and as such I am authorised by the other Applicants to sewer this verification.

And I sign this verification on this the 20th day of Nov 2010

Sri Binay Das

= 9 =

ANNEXURE - RJ-1

Period	Mr.	Unit	Sig. of G. O.
From	To	No.	

44  
NAGALAND EN  
DIVI

Personal record  
Of Employment  
On Muster Roll



98

55

Name .....  
Ske. Kadhu Zeka

Date of Birth .....

Father's name Moti Kam Zeka

P. O. Kaki Dist. Nowrang

Present address C/o. B. R. Lagoi, L9

90. Tel. C. O. T. / D. 202 P.

Permanent address Vill. Kaki No 1.

P. O. Kaki Dist. Nowrang

Employment Exchange Regn No. &

Office (if sponsored) .....

10 = ANNEXURE - RJ-1A

TO WHOM IT MAY CONCERN

Certified that Sri. Madhu Deka, S/o Sri Motiram Deka,  
Kaki Newgang had worked as a casual labour under this division from  
30/4/81 to 31/4/82.

He was sponsored by District Employment Exchange, Itanagar  
Nagaland, vide Reg. No. 1648/81 and sponsoring No. SRE/I-15/82.

~~Sub-Divisional Officer Telegraphs  
Dimapur : Nagaland~~

~~Sub-Divisional Officer Telegraphs  
Dimapur : Nagaland~~



Statement showing details in respect of casual labourers recruited after 30.3.85 (Excluding the casual labourers) recruited between 31.3.85 to 22.6.88 for project/Railway Electrification works).

1. Name of the casual labourers... MADHU SHING HIRAH

2. Date of birth... 21/11/1965.

3. Date of appointment as... 1991 Casual Maydoot

4. Period of service each year...  
1985, 86, 87, 88, 89, 90, 91, 92  
93 (Total No working days).  
1991 - 255 Days ✓  
1992 - 253 "  
1993 - 268 "  
1994 - 294 "  
1995 - 264 "  
1996 - 197 "

5. Whether employment exchange...  
procedure was followed in r  
reason thereof.  
9424/89

6. Reason for employing casual..  
labourers after 31.3.85..  
For the interest of  
service in Department

7. Officer who approved employment  
of casual labourers...  
Hojai J.T.C(Gen) I

8. The reason for cintinuance:-  
of casual labourers service,  
inspite of orders for termination.

Signature of S.I/L.I. period from..... to.... 1991 January 1996 September

Milam Patok (S.I.O) L.I.G.

Signature of concerned J.T.C. period from..... to...

Counter signature for the .. od from....

SDE(P)/S.D.C.T/Nagann/Diphu/  
Hojai/SDE(C)/MCN.

S.D.C.T/Nagann.

Certified that Shri..... MADHU SHINGE HIRA.....  
an inhabitant of Village...KAKI...No. P.O.....KAKI.....  
P.S...KAKI Dist.Nagaon(Assam). He is working under me as  
Casual Mazdoor on ACG-17 as follows.

Jan/90	Jan/91 - 21 days	Jan/92 - 21 days
Feb/90	Feb/91 - 20 "	Feb/92, - 20 "
March/90	March/91. - 22 "	March/92. - 21 "
April/90.	April/91. - 21 "	April/92. - 21 "
May/90.	May/91. - 21 "	May/92. - 21 "
June/90.	June/91. - 22 "	June/92. - 22 "
July/90.	July/91. - 21 "	July/92. - 21 "
Aug/90.	Aug/92. - 21 "	Aug/92. - 21 "
Sept/90.	Sept/91. - 22 "	Sept/92. - 22 "
Oct/90.	Oct/91. - 21 "	Oct/92. - 21 "
Nov/90.	Nov/91. - 22 "	Nov/92. - 21 "
Dec/90.	Dec/91. - 21 "	Dec/92. - 21 "

Total..	Total.. 255 Days.	Total.. 253 Days
Jan/93. - 22 days.	Jan/94. - 27 days.	Jan/95. - 22 days.
Feb/93. - 20 "	Feb/94. - 24 "	Feb/95. - 23 "
March/93. - 22 "	March/94. - 25 "	March/95. - 20 "
April/93. - 22 "	April/94. - 26 "	April/95. - 22 "
May/93. - 23 "	May/94. - 27 "	May/95. - 21 "
June/93. - 22 "	June/94. - 26 "	June/95. - 20 "
July/93. - 23 "	July/94. - 27 "	July/95. - 25 "
Aug/93. - 23 "	Aug/94. - 27 "	Aug/95. - 21 "
Sept/93. - 22 "	Sept/94. - 22 "	Sept/95. - 23 "
Oct/93. - 23 "	Oct/94. - 20 "	Oct/95. - 20 "
Nov/93. - 23 "	Nov/94. - 21 "	Nov/95. - 24 "
Dec/93. - 23 "	Dec/94. - 22 "	Dec/95. - 23 "

Total.. 268 Days.	Total.. 294 Days.	Total... 264 Days
Jan/96. - 23 days.		
Feb/96. - 20 "		
March/96. - 22 "		
April/96. - 25 "		
May/96. - 20 "		
June/96. - 22 "		
July/96. - 24 "		
Aug/96. - 21 "		
Sept/96. - 20 "		
Oct/96.		
Nov/96.		
Dec/96.		
Total... - 197 Days.		

Sri P.K. Adhikari I.T.E.  
Telecom District Engineer,  
Nagpur Telecom Dist. Nagpur

Office of the Telecom District  
Engineer, Nagpur Telecom Dist.  
Nagpur.

D.O. No. F-5/Casual Mazdoor/Part  
III/94 Dated 16.9.94

Dear Sri Chaudhury,

While preparing the Gradation list of Casual Mazdoors as per individual proforma report/ certificate duly signed by concerned S.T./JPOs and countersigned by you and submitted to this office it is seen that a large number of casual mazdoors are due to be conferred T.S.M. and working continuously without dispensing with their service. Even then you have recruited following casual mazdoors after 22.6.88 and still the same practice is continuing violating the higher authorities orders.

In this connection you are requested to intimate the cause of recruitment of those mazdoors immediately to the undersigned. If your report in this regard is not satisfactory and justify, the undersigned bound to take disciplinary action against you.

Further it is to be noted that: 1) Casual Mazdoors who have already conferred TSM and will be TSM must be utilised in Estimated construction works so that no additional fund is involved to incurring in engaging extra mazdoors. The allotment on wages has already been sealed by D.O.

2) If there is no sufficient work works in the Sub-Division, T.S.M. must be diverted to the other Sub-Division consulting with other unit officers, so that no any T.S.M. labourer are sitting idle. A party can be formed with 5 to 6 TSMs under one SI/LI for smooth functioning.

3) Casual mazdoors who have conferred TSM, their records in employment particulars &c. ACD-17, ACE-3 and ACE-2 bills of L/I, S.I., JPOs and S.D.Os respectively must be preserved as instructed earlier via this office D.O. letter of even number dated 28.4.94 that same can be produced at any time to higher authority on demand called for.

With best wishes,

of mazdoors

- 1) Sri P.K. Adhikari
- 2) Bhagirathi Bhagat
- 3) Benarsi Jaiswal
- 4) Boti Bhakar
- 5) Jayashankar Seal
- 6) Madhusing Hira
- 7) Parvin Kumar Parvin
- 8) Shyamal Dey
- 9) Joy Prakash Singh

Name of Mazdoors

- 10) Mrs. Rita Sarkar
- 11) Sri Bibhush Malakar
- 12) L. Dyanandu Singh
- 13) Dipen Kumar Nath
- 14) Dilip Kumar Roy
- 15) Md. Islamuddin
- 16) Sri Jagat Barman.

Yours sincerely

(P.K. Adhikari)

Sri A.S. Chaudhury  
S.D.O.T., Rojai

Copy for information to the S.D.O.T./SDE(P)(GRP) Nagpur/DPM/Brigadier

Telecom District Engineer  
Nagpur Telecom Dist. NCG

GOVT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS  
OFFICE OF THE TELECOM DISTRICT MANAGER  
NAGAON ASSAM

No.E-336/Court-Case/2000-2001/3. Dated at Nagaon the 26-06-2000.

To,

The D.E. Microwave Project  
Guwahati.

Sub-CAT case No.170/2000 filed by S/Sri Binoy  
Das S/O Late Gobinda Das and Madhu Singh  
Hira S/O Late Motiram Hira.

This is to intimate you that the above mentioned persons have approached the Hon'ble CAT Guwahati praying for their regular absorption/ appointment as casual labourers in this Department. Their statement revealed that they were initially engaged as casual workers by the O/O the SDO M/W Project Dimoruguri Nagaon since January 1993 and they continued to serve there till Dec/94.

As such you are requested to kindly furnish their engagement particulars to the U/S at the earliest.

This may kindly be treated as most urgent.

S.D.E. (HRD)  
O/O the TDM Nagaon.

Copy to :-1) The S.D.E. M/W Project Dimoruguri Nagaon for his kind information and necessary action.

S.D.E. (HRD)  
O/O the TDM Nagaon.

Dep. H. = 15 =

Telecom.

Regd. A/D

GOVT. OF INDIA  
 DEPARTMENT OF TELECOMMUNICATION  
 O/C THE DIVISIONAL ENGINEER TELECOM  
 MICROWAVE PROJECTS, GUWALIATI-3

210

The SDE (HRD)  
 To the T.D.M. Nagaon

Sub:-

CAT case no 170/2000 filed by S/o Binoy Das, S/o late Gobinda Das and  
 Madhu Singh Hira S/o late Motiram Hira

No. 1111/2000/256/37

Dt. 03/7/2000

Ref:- Your letter No. E-336/court case/2000-2001/3  
 Dt. Nagaon, the 26-06-2000

With reference to your letter no. as  
 cited above, the required information of initially  
 engaged as casual workers of Shri Binoy Das,  
 S/o late Gobinda Das, to on from April 194 to 12/94  
 (Total 50 years) is available in the office, is sent  
 herewith. However if necessary further information or  
 necessary action is required.

Enc. As above

Divisional Engineer  
 Telecom Project-1  
 Guwahati-3

ANNEXURE 'C' (Page-2).

ENGAGEMENT PARTICULARS FROM THE DATE OF THE INITIAL ENGAGEMENT

3/94 Bimonthly Tds - Cashless 1163 Crs. P.

Year / Month.	No. of days.	Mode of payment i.e. Master Roll/ACG-17 Particulars i.e. Vr.Nos.	Amount Engaged by whom.	Billing/ passing authority.	Name of A.O. whom has paid.
1/94	31 days				
2/94	31 days				
3/94	31 days				
4/94	30 days	A/c N. 2/94-15 PE 31/5/94 Vr. 9	1630/-	S. C. Bala P. E. T. M. C. D.	M. D. M.
5/94	31 days	A/c N. 6/94-15 PE 1/7/94 Vr. 6	1630/-	C.H. - do -	A. M. L. (D)
6/94	30 days	A/c N. 5/94-15 PE 5/7/94 Vr. 7	1630/-	- do -	- do -
7/94	31 days	A/c N. 7/94-15 PE 12/8/94 Vr. 21	1630/-	- do -	- do -
8/94	26 days	A/c N. 9/94-15 PE 25/9/94 Vr. 18	1470/-	S. C. Bala V. O. S. - do -	- do -
9/94	30 days	A/c N. 10/94-15 PE 1-11-94 Vr. 33	1705/-	- do -	- do -
10/94	31 days	A/c N. 11/94-15 PE 3/11/94 Vr. 6	1705/-	S. C. Bala S. T. C. - do -	- do -
11/94	30 days	A/c N. 13/11/94-15 PE 2-12-94 Vr. N. 132	1705/-	S. C. Bala S. T. C. - do -	- do -
12/94	31 days	A/c N. 14/12/94-15 PE 8/12/94 Vr. N. (14)	1705/-	S. C. Bala S. T. C. - do -	- do -
		270 days			

270 days

केन्द्रीय नियन्त्रित विभाग  
Central Admin. IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

2 NOV 2000 GUWAHATI BENCH

गुवाहाटी अदायक  
Guwahati Bench. A. No. 170. OF 2000

Shri Binoy Das & others

- VS -

Union of India & others

IN THE MATTER OF

Show cause reply submitted by the Respondents.

The respondents beg to submit show cause reply as follows :-

(a) That there is no scheme introduced in the department in 1999 for grant of temporary status to the casual labourers. However, as an one time exception, the TCHQ agreed to, in principle, to confer Ty. Status to all casual labourers eligible and working in the department as on 1.8.98.

They were not in engagement as on 1.8.98 and hence they are not covered by the special relaxation.

(b) That Shri Binoy Das (Application No. 1) and Shri Madhu Singh Hira (Applicant No. 2) were occasionally engaged by the field Units for performance of work which was purely casual and intermittent in nature for which creation of regular post is not justified.

The applicants were not appointed by any authority nor their services were utilised against any sanctioned vacancy. No selection procedure was also followed before engaging the applicants by oral order.

The applicants were engaged for the following duration :-

Shri Binoy Das

Year 1993 Nil

Shri Madhu Singh Hira.

Aug. 1993 - 30 days

Contd..... 2/P

Filed by

6/11/2000  
(A. DEBROY)  
Sr. C. C. S. C.  
C. A. T. Court, Guwahati

Shri Binoy Das	Shri Madhu Singh Hira
Year 1994 Nil	Jan. 30 days
	July 31 "
	Aug -26 "
	Nov.-21 "
	<u>Dec- 31 "</u>
	139 days.
Year 1995 Jan.-31 days	Jan.-31 days
Feb- 28 days	Feb- 28 "
<u>March 25 days</u>	March 31 "
84 days	July-23 "
	Aug.-31 "
	Sept-15 "
	Oct.-05 "
	<u>Dec.- 30 "</u>
	194 days
Year 1996	Jan.-25 days
Feb.-28 days	Feb.-20 days
<u>March-07 days</u>	June-25 days
<u>35 days</u>	<u>July-08 days</u>
	78 days
Year 1997 Nil	Nil
Year 1998 Nil	Nil
Year 1999 Nil	Nil
Year 2000 Nil	Nil.

From the above particulars, it is vividly clear  
that the ~~applicants~~ <sup>applications</sup> were not engaged for any depart-  
mental work on a continuous basis in any calender  
year. The applicants have not been engaged for any  
work after July, 1996.

(c) That the applicants have wrongly claimed that they are still in service with the respondent department. In fact they were never in departmental service. They were picked up from the market in random whenever additional labourers was needed for any local project/ Mtce work on a day to day basis. In any case, they were not engaged after July, 1996.

The applicants have not been engaged for any departmental work in the last 4 years. During this long period the applicants did not make any appearance or pressed for their reengagement. Their claim for re-engagement and/or grant of Ty. status is barred by limitation. The relaxation granted by TCHQ in 1999 ~~is not covered by the onetime relaxation~~ also does not help the applicants in any way.

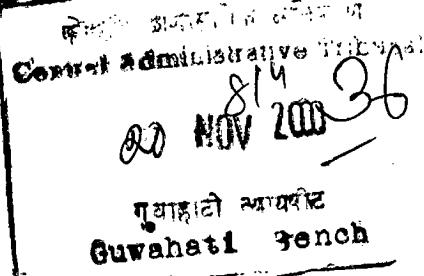
Verification

## VERIFICATION

I, G.C. Sarma, Asstt. Director Telecom (Legal )  
at Guwahati being authorised do hereby solemnly declare  
that the statements made in this show cause reply is true  
to my knowledge , information and believe.

And I sign this verification on this 3rd day  
of November, 2000.

Ganesh Ch. Sarma.  
Declarant.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:-

29  
67  
Filed by  
Lokhanta Sonam  
20/11/2000

O.A NO 170 OF 2000.

Sri Binay Das & Anr. .... Petitioners.

- vs -

U. O. I. & Ors. .... Respondents.

IN THE MATTER OF

Reply to the Show cause reply  
submitted by the Respondents.

The Applicants beg to submit the reply to the show cause reply filed by the Respondents as follows

1. That the Applicants before dealing with para wise reply beg to raise the preliminary objection regarding the maintainability of the show cause reply filed by the Respondents. In the said reply Respondents has not verified any of its paragraphs and there is no verification as such the said show cause reply furnished to the Applicant. It is therefore prayed that Your Lordships may be pleased not to accept the said show cause reply and to allow the OA holding that the statements made in the OA are admitted.
2. That the Applicant No. 1 Sri Binay Das, entered in the services under the Respondents as casual worker after following the due process of selection in the month of January, 1993 in the office of the SDO Microwave, Dhemrupuri, Nagaon and he was placed under

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✓

the direct control of one Shri Suresh Borah, JTO. Thereafter he was transferred to Microwave Station, Lanka and in the said station he worked upto December 1994. The Applicant again was transferred to the office of the SDOT, Hojai, Telephone Exchange and in the said Exchange he was again placed under the direct control of one Shri Kamakhya Ranjan Dey, JTO. The Applicant as stated above was working as a casual worker since 1993 and he used to get his salary under ACG-17 pay bills which is a recommended pay bills of the Respondents.

The Applicant No. 2 got his initial appointment in the year 1981 and to that effect the Respondents placed indents to the District Employment Exchange. The District Employment Exchange on receipt of such indents sponsored the name of the Applicant No. 2 Shri Madhu Sing Hira for such appointment. After the initial appointment the Applicant was placed under the Construction Officer (T) Nagaland, in the office of the SDOT, Nagaland as casual worker. Thereafter the Applicant continued to hold the post till 1991 and he was transferred to the office of the SDOT, Hojai Sub-division.

Copies of the employment exchange card and the certificate issued by the Sub-divisional Officer, Telegraph, Dimapur, Nagaland are annexed herewith and marked as Annexure-RJ/1 & RJ/1A respectively.

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3. That with regard to the statements made in paragraph a of the show cause reply the Applicants beg to state that so far as Applicant No. 1 is concerned he was initially engaged in the year 1993 and continued till the filing of the case. On the other hand the Applicant No. 2 who was initially appointed in the year 1981 has also worked till the filing of the OA. However, on receipt of the notice alongwith the order dated 19.5.2000 protecting the service interest of the Applicants, the Respondents without issuing any order terminated their service. As per the order dated 1.9.99 (Annexure-4 to the OA) the Department of Telecommunication has decided to extend the benefit of the 1989 scheme to the recruits up to 1.8.98. In fact the Applicant were in engagement with effect from their initial appointment till the filing of the OA. Therefore their cases are required to be considered under the said Annexure-4 order dated 1.9.99.

4. That with regard to the statements made in paragraph b of the show cause reply submitted by the Respondents, the Applicants beg to state that both the Applicants were in service with effect from their respective date of appointment without any break. Payments have been made to them by the Respondents through the departmental pay slips prescribed for such casual workers namely ACG-17. The Applicant also denies the statement made by the Respondents regarding creation of

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regular post for them. In fact almost 900 posts (Gr.-D) have already been sanctioned to Assam Circle and hence question does not arise regarding creation of any further posts.

It is further stated that the Applicants were appointed initially after following the due process of law and as stated above the Applicant No. 2 has been sponsored by the District Employment Exchange for such appointment. Respondents in fact in the year 1997 started the process of granting temporary status to the casual workers who were recruited between 31.3.85 to 22.6.88 and to that effect the Applicant No. 2's biodata has been submitted by the SDOT, Nagaon to the concerned authority indicating the days of work in a particular year. The said biodata was approved by the JTO, Groups-I, Hojai and which was counter signed by SDOT, Nagaon along with SDE(P), SDOT- Nagaon, SDOT- Diphu, SDOT-Hojai and the SDE(C)-MCN. Further his name appeared in the gradation list prepared by the Telecom District Engineer, Nagaon at serial No. 6.

Copies of the biodata submitted by the SDOT, Nagaon and the gradation list circulated vide DO No. 16.9.94 are annexed as Annexure-RJ/2 and RJ/2A respectively.

On the other hand so far as the Applicant No. 1 is

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concerned after receipt of the notice by the Hon'ble Tribunal, the TDM Nagaon, issued a letter dated 26.6.2000 to DE Microwave Project asking for his service particulars and the Division Engineer in reference to the said letter submitted the particulars that he has completed 270 days in the year 1994. However, in the show cause reply in paragraph b the Respondents indicated that he did not work in the year 1994.

A copy of the aforesaid letter dated 26.6.2000 and the reply of DE enclosing the service particular are annexed as Annexure-RJ/3 and RJ/3A respectively

That the Applicant No. 1 has also issued with certificate by the concerned authority i.e. JTO Gr. Hojai Telephone Exchange, Hojai, that he has been working since 1994, December at Lank Telephone Exchange.

A copy of the said certificate dated 24.7.99 is annexed as Annexure-RJ/4.

That from the above the service particulars placed by the Respondents in the show cause reply can be treated as vague and without consulting any record. In fact the Applicants were in engagement till the filing of the case and after passing of the interim order dated 19.5.2000 and after receiving the notice from

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this Hon'ble Tribunal the Respondents have disengaged him for which the Respondent are liable for Contempt of Court Proceeding.

5. That with regard to the statements made in paragraph c of the show cause reply submitted by the Respondents the Applicants beg to reiterate and reaffirm the statement made above as well as in the OA. In reply to the statement that they were never in departmental service the Applicant beg to refer to the Annexures mentioned above as well as Annexure-RJ/1A and Annexure-RJ/2A in case of Applicant No. 2. Similarly in case of Applicant No. 1 Annexure-RJ/4 and Annexure-RJ/3A will speak the truth.

In reply to the statement regarding their picking up from market in random, the Applicant begs to state that both the Applicants got their initial appointment pursuant to due selection process prevailing at that time. In fact Annexure-RJ/1A certificate dated 11.6.93 will speak the correctness of the statement.

The Applicants in view of the aforesaid facts and circumstances prays before this Hon'ble Tribunal for a direction to the Respondents for production of relevant records including payment register at the time of hearing of the case.

6. That in view of the above facts and circumstances

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the Applicants prays before this Hon'ble Tribunal that appropriate direction may be issued to the Respondents for extending the benefit of temporary status to them it retrospective effect with all consequential service benefits including arrear salary, seniority, etc.

Verification...

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#### VERIFICATION

I Shri Binay Das, age about 29 years, son of Late Gobinda Das, casual worker under SDOT, Hojai Sub-division, Nagaon, do hereby solemnly affirm and verify that the statements made in paragraph 6 are true to my knowledge and those made in paragraphs 1-5 are matters of records which are believed to be true and rest are my humble submission before this Hon'ble Tribunal.

I am the Applicant No. 1 in the instant application and as such I am authorised by the other Applicants to swear this verification.

And I sign this verification on this the 20<sup>th</sup> day of Nov 2000.

Shri Binay Das

Period	Mr.	Unit	Sig. of G. O.
From	To	No.	

NAGALAND EN  
DIVI

Personal record  
Of Employment  
On Muster Roll



Name .....  
Ske. Madhu Zeka

Date of Birth .....

Father's name Mati. Kam Zeka

P.C. Kaki Dist. Nowgong

Present address C/o. B.R. Gaoj, L9

O.O. Tuk. C.O. T. I.D. 222 P.

Permanent address Tuk. Kaki No. 1

P.O. Kaki Dist. Nowgong

Employment Exchange Regn No. &  
Office (if sponsored) .....

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TO WHOM IT MAY CONCERN

Certified that Sri. Madhu Deka, S/o Sri Metiram Deka,  
Kaki Neweng had worked as a casual labour under this division from  
30/4/81 to 31/4/82.

He was sponsored by District Employment Exchange, Tuensangh  
Nagaland, vide Reg. No. 1648/81 and sponsoring No. DRD/I-15/82.

Sub-Divisional Officer Telegraphs  
Dimapur : Nagaland

Sub-Divisional Officer Telegraphs  
Dimapur : Nagaland



Statement showing details in respect of casual labourers recruited after 30.3.85 (Excluding the casual labourers) recruited between 31.3.85 to 22.6.88 for project/Railway Electrification works).

1. Name of the casual labourers... MADHU SHING HIRAH

2. Date of birth.... 21-11-1965.

3. Date of appointment as. .... 1991 Casual Maydooji.

4. Period of service each year...  
 1985, 86, 87, 88, 89, 90, 91, 92  
 93 (Total No. working days). 1991 - 255 Days.  
 1992 - 253 "  
 1993 - 268 "  
 1994 - 294 "  
 1995 - 264 "  
 1996 - 197 "

5. Whether employment exchange...  
 procedure was followed in r  
 reason thereof. 9424/89

6. Reason for employing casual..  
 labourers after 31.3.85.. For the Int. of  
 service in Department

7. Officer who approved employment  
 of casual labourers... Hojai J.T.C(Gen) I

8. The reason for cintinuance:-  
 of casual labourers-service,  
 Inspite of orders for termination.

Signature of S.I/L.I. period from..... to.... 1991 January 1996 September

Milam Patok (S.I.O) L.M.G.

Signature of concerned J.T.C. period from..... to...

Counter signature for the .. od from....

SDE(P)/S.D.C.T/Nagann/Diphu/  
 Hojai/SDE(C)/MON.

S.D.C.T/Nagann.

Certified that Shri..... MADHU SHING HIRA.....  
 an inhabitant of Village... KAKI... No. P.O..... KAKI.....  
 P.S... KAKI Dist. Nagaon (Assam). He is working under me as  
 Casual Mazzays on ACG-17 as follows.

Jan/90	Jan/91 - 21 days	Jan/92 - 21 days
Feb/90	Feb/91 - 20 "	Feb/92 - 20 "
March/90	March/91 - 22 "	March/92 - 21 "
April/90.	April/91 - 21 "	April/92 - 21 "
May/90.	May/91 - 21 "	May/92 - 21 "
June/90.	June/91 - 22 "	June/92 - 22 "
July/90.	July/91 - 21 "	July/92 - 21 "
Aug/90.	Aug/92 - 21 "	Aug/92 - 21 "
Sept/90.	Sept/91 - 22 "	Sept/92 - 22 "
Oct/90.	Oct/91 - 21 "	Oct/92 - 21 "
Nov/90.	Nov/91 - 22 "	Nov/92 - 21 "
Dec/90.	Dec/91 - 21 "	Dec/92 - 21 "

Total..	Total.. 255 Days.	Total.. 253 Days.
Jan/93. - 22 days.	Jan/94. - 27 days.	Jan/95. - 22 days.
Feb/93. - 20 "	Feb/94. - 24 "	Feb/95. - 23 "
March/93. - 22 "	March/94. - 25 "	March/95. - 20 "
April/93. - 22 "	April/94. - 26 "	April/95. - 22 "
May/93. - 23 "	May/94. - 27 "	May/95. - 21 "
June/93. - 22 "	June/94. - 26 "	June/95. - 20 "
July/93. - 23 "	July/94. - 27 "	July/95. - 25 "
Aug/93. - 23 "	August/94. - 27 "	Aug/95. - 21 "
Sept/93. - 22 "	Sept/94. - 22 "	Sept/95. - 23 "
Oct/93. - 23 "	Oct/94. - 20 "	Oct/95. - 20 "
Nov/93. - 23 "	Nov/94. - 21 "	Nov/95. - 24 "
Dec/93. - 23 "	Dec/94. - 22 "	Dec/95. - 23 "

Total.. 268 Days.	Total.. 294 Days.	Total.... 264 Days
Jan/96. - 23 days.		
Feb/96. - 26 "		
March/96. - 22 "		
April/96. - 25 "		
May/96. - 20 "		
June/96. - 22 "		
July/96. - 24 "		
Aug/96. - 21 "		
Sept/96. - 20 "		
Oct/96.		
Nov/96.		
Dec/96.		
Total... - 197 Days.		

## ANNEXURE - RJ-2A

1. P.K. Adhikari I.T.E.  
Telecom District Engineer,  
Nagaon Telecom Dist. Nagaoan

Office of the Telecom District  
Engineer, Nagaon Telecom Dist.  
Nagaon.

D.O. No. E-5/Annual Mazdoor/Part  
III/34 Dated 16.9.94

Dear Sri Chaudhury,

While preparing the Gradation list of Casual Mazdoors as per individual proforma report/ certificate duly signed by concerned S.T./JDOs and countersigned by you and submitted to this office it is seen that a large number of casual mazdoors are due to be conferred T.S.M. and working continuously without dispensing with the their service. Even then you have recruited following casual mazdoors after 22.6.88 and still the same practice is continuing violating the higher authorities orders.

In this connection you are requested to intimate the cause of recruitment of those mazdoors immediately to the undersigned. If your report in this regard is not satisfactory and justify, the undersigned bound to take disciplinary action against you.

Further it is to be noted that: 1) Casual Mazdoors who have already conferred TSM and will be TSM must be utilised in mentioned construction works so that no additional fund is involved to incurring in engaging extra mazdoors. The allotment on wages has already been sealed by D.O.

2) If there is no sufficient work works in the Sub-Division, T.S.M. must be diverted to the other Sub-Division consulting with other unit officers, so that no any T.S.M. labourer are sitting idle. A party can be formed with 5 to 6 TSMs under one SI/LI for smooth functioning.

3) Casual mazdoors who have conferred TSM, their records and payment particulars &c. ACD-17, ACE-3 and ACE-2 bills of L/H, S.I., JDOs and S.D.Os respectively must be preserved as instructed earlier via this office D.O. letter of even number dated 28.4.94 that same can be produced at any time to higher authority on and when called for.

With best wishes.

List of Mazdoors

- 1) P.K. Adhikari
- 2) Dhaneswar Baglung
- 3) Hemari Bhowmik
- 4) Motilal Takar
- 5) Paragdhan Seal
- 6) Madhusing Hira
- 7) Parjan Kumar Baruah
- 8) Bhupal Singh
- 9) Joy Prakash Singh

Name of Mazdoors

- 10) Mrs. Rita Sarkar
- 11) Sri Bibhushan Malakar
- 12) " L. Dyanand Singh
- 13) " Dipon Kumar Nath
- 14) " Dilip Kumar Roy
- 15) MD Islamuddin
- 16) Sri Jagat Barman.

Yours sincerely,

(P.K. Adhikari)

Sri L.A.S. Chaudhury

S.D.O.T., Nagaon

Copy for information to the S.D.O.T./SDE(P)(GRP), Nagaon/DPH/Ministry

Telecom District Engineer  
Nagaon Telecom Dist. NCG

P-21  
FAX: 0361- 541200.GOVT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS  
OFFICE OF THE TELECOM DISTRICT MANAGER  
NAGAON ASSAM

No.E-336/Court-Case/2000-2001/3.

Dated at Nagaon the 26-06-2000.

To:  
The D.E. Microwave Project  
Guwahati.

Sub-CAT case No.170/2000 filed by S/Sri Binoy  
Das S/O Late Gobinda Das and Madhu Singh  
Hira S/O Late Motiram Hira.

This is to intimate you that the above mentioned persons have approached the Hon'ble CAT Guwahati praying for their regular absorption/appointment as casual labourers in this Department. Their statement revealed that they were initially engaged as casual workers by the O/O the SDO M/W Project Dimoruguri Nagaon since January 1993 and they continued to serve there till Dec/94.

As such you are requested to kindly furnish their engagement particulars to the U/S at the earliest.

This may kindly be treated as most urgent.

S.D.E. (HRD)  
O/O the TDM Nagaon.

Copy to :-1) The S.D.E. M/W Project Dimoruguri Nagaon for his kind information and necessary action.

S.D.E. (HRD)  
O/O the TDM Nagaon.

Dept. 11 = 15 =

Telecom.

Regd. A/D

O/P

GOVT. OF INDIA  
 DEPARTMENT OF TELECOMMUNICATION  
 O/C THE DIVISIONAL ENGINEER TELECOM  
 MICROWAVE PROJECTS, GUWAHATI-3

210

The SDE (HRD)  
 To the T.D.M. Nagaon

Sub:-

CAT case no. 170/2000 filed by S/o Mr.  
 Binoy Das &/o late Gobinda Das and  
 Madhu Singh Hira S/o late Motiram  
 Hira

No. 1104/2001/256/37 Date. 03/7/2000

Ref:- Your letter No. E-336/court case/2000-2001/3  
 Dtd. Nagaon, the 26-06-2000

With reference to your letter no. as  
 cited above, the required information of initially  
 engaged as casual workers of Mr. Binoy Das,  
 &/o late Gobinda Das, & on from April 94 to 12/94  
 (Total 270 days) is available in the office, is sent  
 herewith. However if necessary for information &  
 necessary action, please.

Enc. As above.

Divisional Engineer  
 Telecom Project-1  
 Guwahati-3

## ANNEXURE 'C' (Page-2).

ENGAGEMENT PARTICULARS FROM THE DATE OF THE INITIAL ENGAGEMENT.

Sri Bhanu Das - Case No. 116300-2

Year / Month.	No. of days.	Mode of payment i.e. Master Rpt/Acc-17 Particulars i.e. Vr.Nos.	Amount Engaged by whom.	Billing/ passing authority.	Name of A.O. whom has paid.
1/1/94	1/1/94				
	2/94				
	3/94				
4/94	30 days	A/c No - 2/94-15 PE 3/1/94 Vr. 9	1630/-	S. C. Balaji T & T 198(1) G.H.	M. Dinesh A. M. L. (D)
5/94	31 days	A/c No - 6/94-15 PE 1/7/94 Vr. 6	1630/-	— do —	— do —
6/94	30 days	A/c No - 5/14-15 PE 5/7/94 Vr. 7	1630/-	— do —	— do —
7/94	31 days	A/c No - 7/94-15 PE - 12-8-74 V8(2)	1630/-	— do —	— do —
8/94	26 days	A/c No - 9/94-15 PE 2/7/94 V8-18	1470/-	S. K. Chakravarthy V. R. S. S. P.	— do —
9/94	30 days	A/c No - 10/94-15 PE - 1-11-94 V1(3)	1705/-	— do —	— do —
10/94	31 days	A/c No - 11/94-15 PE 2/11/94 Vr. 6	1705/-	S. C. Balaji S. T. C.	— do —
11/94	30 days	A/c No - 12/94-15 PE 2/12/94 Vr. No 732	1705/-	S. C. Balaji S. T. C.	— do —
12/94	31 days	A/c No - 4/94-15 PE 8/2/94 Vr. No (14)	1705/-	S. C. Balaji S. T. C.	— do —
	270 days				

SV = 17 = ANNEXURE - RJ-4

Date: 24/07/1999.

To whom it may concern.

Certified that Sri Binoy Ch Das.

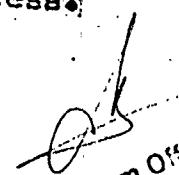
Son of Lt. Cobinda Das, Dispur Hengrabari

Guwahati-6, was working in the Telecom Deptt.

in metoe of exchanges casually since 1994,

Doc at Lanka Telephone Exchange. His character  
is good & most obedient.

I wish him all the success.

  
Junior Telecom Officer (Gr II)  
Hojai Telephone Exchange  
Hojai